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EXAMINER

YOUNG, JOHN L

ART UNIT	PAPER NUMBER
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3622

DATE MAILED: 11/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/852,497

Applicant(s)  
Vigil et al.

Examiner  
John Young

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Oct 28, 2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-82 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-82 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

*[Handwritten signature]*  
11-24-03

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**FOURTH OFFICE ACTION REJECTION ( PAPER # 19)**

**WITHDRAWAL OF FINALITY OF PAPER # 16**

1. The finality of the rejection of the prior Office Action (paper#16) is withdrawn and Amendment C paper#18 is herein entered and considered because the instant Office action (paper#19) introduces new grounds of rejection (see at least the 35 USC 101 rejections of claims 1-10, 18-20, 41-48 & 60 infra).

**STATUS**

2. Claims 1-82 are pending.

**DRAWINGS**

3. This application has been filed with drawings that are considered informal; said drawings are acceptable for examination purposes. The review process for drawings that are included with applications on filing has been modified in view of the new requirement to publish applications at eighteen months after the filing date of applications, or any priority date claimed under 35 U.S.C. §§119, 120, 121, or 365.

**PROVISIONAL CLAIM REJECTIONS**

4. **PROVISIONAL REJECTION MAINTAINED.**

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**CLAIM REJECTIONS — 35 U.S.C. §101**

35 U.S.C. §101 reads as follows:

Whoever invents or discovers any new and useful  
process, machine, manufacture, or composition of matter or  
any new and useful improvement thereof, may obtain a  
patent therefore, subject to the conditions and requirements  
of this title.

5. Claims 1-10, 18-20, 41-48 & 60 are rejected under 35 U.S.C. 101, because the claims are directed to non-statutory subject matter.

As per claims 1-10, 18-20, 41-48 & 60, as drafted said claims are not limited by language to a useful, concrete and tangible application (See *State Street v. Signature financial Group*, 149 F.3d at 1374-75 , 47 USPQ 2d at 1602 (Fed Cir. 1998) ; *AT&T Corp. v. Excel*, 50 USPQ 2d 1447, 1452 (Fed. Cir. 1999) within the technological arts (see *In re Waldbaum*, 173 USPQ 430 (CCPA 1972); *In re Musgrave*, 167 USPQ 280 (CCPA 1970) and *In re Johnston*, 183 USPQ 172 (CCPA 1974) also see MPEP 2106 IV 2(b).

Note: it is well settled in the law that “[although] a claim should be interpreted in light of the specification disclosure, it is generally considered improper to read limitations contained in the specification into the claims. See *In re Prater*, 415, F.2d 1393, 162

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USPQ 541 (CCPA 1969) and *In re Winkhaus*, 527 F.2d 637, 188 USPQ 129 (CCPA 1975), which discuss the premise that one cannot rely on the specification to impart limitations to the claims that are not recited in the claims.” (See MPEP 2173.05( q )).

**CLAIM REJECTIONS — 35 U.S.C. §103( a )**

**6. REJECTIONS MAINTAINED (Claims 1-77).**

**CLAIM REJECTIONS — 35 U.S.C. §103( a )**

**The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.**

7. Claims 1-77 are rejected under 35 U.S.C. §103( a ) as being obvious over Small 5,791,991 (8/11/1998) (herein referred to as “Small”) in view of De Rafael 6,529,878 (03/04/2003) [US f/d: 03/19/1999] (herein referred to as “De Rafael”).

As per independent claim 1, Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 1.

Small lacks an explicit recitation of “a fleeting opportunity to submit the entry only after the advertisement has first been displayed to the viewer for a period of time

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without the opportunity to submit an entry. . . .” even though Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

De Rafael (col. 7, ll. 47-62) discloses “users . . . who viewed a certain advertisement . . . within a certain time. . . .”

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have provided means of “*targeting . . . advertisements and responding to consumer preferences. . . .*” (see De Rafael (col. 3, ll. 40-45) and would have provided means for “*an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.*” (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

As per independent claim 2, Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 2.

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Small lacks an explicit recitation of “a fleeting opportunity to submit at least one entry to win the prize . . . wherein the viewer is offered the fleeting opportunity only after the advertisement has first been displayed to the viewer for a period of time without the opportunity to submit an entry. . . .” even though Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

De Rafael (col. 7, ll. 47-62) discloses “users . . . who viewed a certain advertisement . . . within a certain time. . . .”

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have provided means of “*targeting . . . advertisements and responding to consumer preferences. . . .*” (see De Rafael (col. 3, ll. 40-45) and would have provided means for “*an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.*” (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

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As per independent claim 3, Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 3.

Small lacks an explicit recitation of the advertisement viewing time elements and limitations of claim 3, even though Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

De Rafael (col. 7, ll. 47-62) discloses “*users . . . who viewed a certain advertisement . . . within a certain time. . . .*”

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have provided means of “*targeting . . . advertisements and responding to consumer preferences. . . .*” (see De Rafael (col. 3, ll. 40-45) and would have provided means for “*an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.*” (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).



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As per claims 4-21, Small in view of De Rafael shows the system of claim 3 and subsequent base claims depending from claim 3. (See the rejection of claim 3 supra).

Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) in view of De Rafael (col. 7, ll. 47-62) shows elements that suggest the elements and limitations of claims 4-21.

Small lacks an explicit recitation of the elements and limitations of claims 4-21, even though Small in view of De Rafael suggests same.

De Rafael (col. 7, ll. 47-62 and whole document) discloses “*users . . . who viewed a certain advertisement . . . within a certain time. . .*”

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have suggested the elements and limitations of claims 4-21 by providing means for “*an improved consumer product promotion method. . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.*” (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

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As per independent claim 22, Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 22.

Small lacks an explicit recitation of the “the advertisement has been displayed to the viewer for a period of time. . . .” even though Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

De Rafael (col. 7, ll. 47-62) discloses “users . . . who viewed a certain advertisement . . . within a certain time. . . .”

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have provided means of “targeting . . . advertisements and responding to consumer preferences. . . .” (see De Rafael (col. 3, ll. 40-45) and would have provided means for “an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.” (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

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As per independent claim 23, Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 23.

Small lacks an explicit recitation of the advertisement viewing time elements and limitations of claim 23, even though Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

De Rafael (col. 7, ll. 47-62) discloses “users . . . who viewed a certain advertisement . . . within a certain time. . . .”

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have provided means of “*targeting . . . advertisements and responding to consumer preferences. . . .*” (see De Rafael (col. 3, ll. 40-45) and would have provided means for “*an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer*

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*product manufacturers and enhanced interest for consumers.”* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

As per claims 24-40, Small in view of De Rafael shows the system of claim 23 and subsequent base claims depending from claim 23. (See the rejection of claim 23 supra).

Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) in view of De Rafael (col. 7, ll. 47-62) shows elements that suggest the elements and limitations of claims 24-40.

Small lacks an explicit recitation of the viewing time elements and limitations of claims 24-40, even though Small in view of De Rafael suggests same.

Small lacks an explicit recitation of the elements and limitations of claims 24-40, even though Small in view of De Rafael suggests same.

De Rafael (col. 7, ll. 47-62 and whole document) discloses “*users . . . who viewed a certain advertisement . . . within a certain time. . .*”

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have suggested the elements and

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limitations of claims 24-40 by providing means for *“an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.”* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

As per independent claim 41, Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 41.

Small lacks an explicit recitation of the advertisement viewing time elements and limitations of claim 41, even though Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

De Rafael (col. 7, ll. 47-62) discloses “users . . . who viewed a certain advertisement . . . within a certain time. . . .”

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have provided means of

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*“targeting . . . advertisements and responding to consumer preferences. . . .”* (see De Rafael (col. 3, ll. 40-45) and would have provided means for *“an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.”* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

As per claims 42-59, Small in view of De Rafael shows the system of claim 41 and subsequent base claims depending from claim 41. (See the rejection of claim 41 supra).

Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) in view of De Rafael (col. 7, ll. 47-62) shows elements that suggest the elements and limitations of claims 42-59.

Small lacks an explicit recitation of the viewing time elements and limitations of claims 42-59, even though Small in view of De Rafael suggests same.

De Rafael (col. 7, ll. 47-62 and whole document) discloses *“users . . . who viewed a certain advertisement . . . within a certain time. . . .”*

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary

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skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have suggested the elements and limitations of claims 42-59 by providing means for “*an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.*” (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

As per independent claim 60, Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 60.

Small lacks an explicit recitation of the advertisement viewing time elements and limitations of claim 60, even though Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

De Rafael (col. 7, ll. 47-62) discloses “users . . . who viewed a certain advertisement . . . within a certain time. . . .”

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary

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skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have provided means of “targeting . . . advertisements and responding to consumer preferences. . . .” (see De Rafael (col. 3, ll. 40-45) and would have provided means for “an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.” (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

As per independent claim 61 Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 61.

Small lacks an explicit recitation of the advertisement viewing time elements and limitations of claim 61, even though Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

De Rafael (col. 7, ll. 47-62) discloses “users . . . who viewed a certain advertisement . . . within a certain time. . . .”



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De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have provided means of *“targeting . . . advertisements and responding to consumer preferences. . . .”* (see De Rafael (col. 3, ll. 40-45) and would have provided means for *“an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.”* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

As per claims 62-72, Small in view of De Rafael shows the system of claim 61 and subsequent base claims depending from claim 61. (See the rejection of claim 61 supra).

Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) in view of De Rafael (col. 7, ll. 47-62) shows elements that suggest the elements and limitations of claims 62-72.

Small lacks an explicit recitation of the viewing time elements and limitations of claims 62-72, even though Small in view of De Rafael suggests same.

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De Rafael (col. 7, ll. 47-62 and whole document) discloses *“users . . . who viewed a certain advertisement . . . within a certain time. . . .”*

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have suggested the elements and limitations of claims 62-72 by providing means for *“an improved consumer product promotion method. . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.”* (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

As per independent claim 73, Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 73.

Small lacks an explicit recitation of the “the advertisement being displayed for a time period. . . .” even though Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

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De Rafael (col. 7, ll. 47-62) discloses “users . . . who viewed a certain advertisement . . . within a certain time. . . .”

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have provided means of “targeting . . . advertisements and responding to consumer preferences. . . .” (see De Rafael (col. 3, ll. 40-45) and would have provided means for “an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.” (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

As per independent claim 74, Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) shows elements that suggest the elements and limitations of claim 74.

Small lacks an explicit recitation of the “the advertisement has been displayed to the viewer for a period of time. . . .” even though Small (the ABSTRACT; FIG. 1 through

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FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) suggests same.

De Rafael (col. 7, ll. 47-62) discloses “users . . . who viewed a certain advertisement . . . within a certain time. . . .”

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have provided means of “targeting . . . advertisements and responding to consumer preferences. . . .” (see De Rafael (col. 3, ll. 40-45) and would have provided means for “an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.” (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

As per claim 75, Small in view of De Rafael shows the system of claim 66. (See the rejection of claim 66 supra).

Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-

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25) in view of De Rafael (col. 7, ll. 47-62) shows elements that suggest the elements and limitations of claim 75.

Small lacks an explicit recitation of the viewing time elements and limitations of claim 75, even though Small in view of De Rafael suggests same.

De Rafael (col. 7, ll. 47-62 and whole document) discloses “*users . . . who viewed a certain advertisement . . . within a certain time. . . .*”

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have suggested the elements and limitations of claim 75 by providing means for “*an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.*” (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

As per claims 76-77, Small in view of De Rafael shows the system of claims 1-75 and subsequent base claims depending from claims 1-75. (See the rejection of claims 1-75 supra).

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Small (the ABSTRACT; FIG. 1 through FIG. 8; col. 1, ll. 19-35; col. 2, ll. 37-67; col. 3, ll. 1-50; col. 5, ll. 1-67; col. 6, ll. 1-67; col. 7, ll. 1-67; col. 8, ll. 1-67; col. 9, ll. 1-25) in view of De Rafael (col. 7, ll. 47-62) shows elements that suggest the elements and limitations of claims 76-77.

Small lacks an explicit recitation of the viewing time elements and limitations of claims 76-77, even though Small in view of De Rafael suggests same.

De Rafael (col. 7, ll. 47-62 and whole document) discloses “*users . . . who viewed a certain advertisement . . . within a certain time. . . .*”

De Rafael proposes advertisement viewing time modifications that would have applied to the teachings of Small. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of De Rafael with the teachings of Small because such combination would have suggested the elements and limitations of claims 76-77 by providing means for “*an improved consumer product promotion method. . . . which provides for effective product promotion with minimal expense, and which results in improved efficiency for participating consumer product manufacturers and enhanced interest for consumers.*” (see Small (col. 3, ll. 50-67; and col. 4, ll. 10-15)).

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**NEW CLAIM REJECTIONS — 35 U.S.C. §103( a )**

**The text of those sections of Title 35, U.S. Code not included in this action  
can be found in a prior Office action.**

8. Claims 78-82 are rejected under 35 U.S.C. §103( a ) as being obvious over Small in view of De Rafael.

Independent claim 78 is rejected for substantially the same reasons as independent claim 1.

Independent claim 79 is rejected for the same reasons as independent claim 1.

Independent claim 80 is rejected for substantially the same reasons as independent claim 1.

Independent claim 81 is rejected for substantially the same reasons as independent claim 1.

Independent claim 82 is rejected for substantially the same reasons as independent claim 79.

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### **RESPONSE TO ARGUMENTS**

9. Applicant's arguments (Amendment C, paper#18, filed 10/28/2003) concerning the rejections in the prior Office action have been considered but are not persuasive for the following reasons:

Applicant's arguments are moot in view of new grounds of rejection introduced in the instant Office action.

### **CONCLUSION**

10. Any response to this action should be mailed to:

Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Any response to this action may be sent via facsimile to either:

(703)305-7687 (for formal communications EXPEDITED PROCEDURE) or

(703) 305-7687 (for formal communications marked AFTER-FINAL) or

(703) 746-7240 (for informal communications marked PROPOSED or DRAFT).

Hand delivered responses may be brought to:

Seventh Floor Receptionist  
Crystal Park V  
2451 Crystal Drive  
Arlington, Virginia.



Serial Number: 09/852,497

(Vigil et al.)

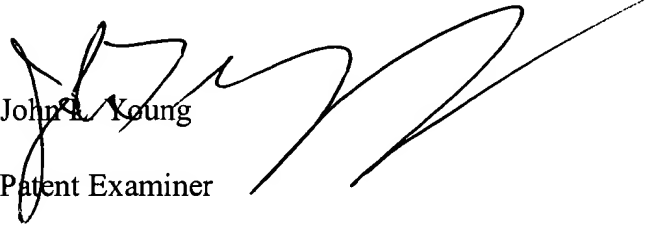
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to John L. Young who may be reached via telephone at (703) 305-3801. The examiner can normally be reached Monday through Friday between 8:30 A.M. and 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber, may be reached at (703) 305-8469.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3900.

  
John L. Young  
Patent Examiner

November 24, 2003